

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

HODELL-NATCO INDUSTRIES, INC.,

Plaintiff,

-vs-

SAP AMERICA, INC., et al.,

Defendant.

: CASE NO. 1:08 CV 02755
:
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:
: ORDER DENYING HODELL'S
: REQUEST TO ALLOW A PROFFER OF
: DR. KENNEDY'S TESTIMONY AT
: TRIAL
:
:
:

UNITED STATES DISTRICT JUDGE LESLEY WELLS

On 13 October 2014, the Court granted SAP's motion to exclude the expert report and testimony of Hodell's expert G. William Kennedy. The Court reached this decision, after having considered the parties' briefs, Dr. Kennedy's expert report, and Dr. Kennedy's deposition testimony, among other things. (See Docket Nos. 176, 180, 181, 199, 202, 204, 247). Although Dr. Kennedy is precluded from testifying before the jury pursuant to the Court's order, Hodell has proposed that it be permitted to proffer Dr. Kennedy's testimony at trial for the purpose of preserving the issue for appellate review. The Court concludes that such a proffer is unnecessary. In its briefing to the Court, Hodell has clearly stated its position on the admissibility of Dr. Kennedy's opinion testimony. Dr. Kennedy's expert report and his deposition testimony are both part of the record. In a memorandum of opinion, the Court addressed the parties' arguments and stated the reasons why Dr. Kennedy's testimony was inadmissible. The existing record

more than adequately provides a proper basis for appellate review. Therefore, Hodell's request to allow of proffer of Dr. Kennedy's testimony is denied.

IT IS SO ORDERED.

/s/ Lesley Wells
UNITED STATES DISTRICT JUDGE

Date: 20 February 2015